

F. Organizational Distribution

NDEP and the Navy will be responsible for informing their own chain of command about documents that require review and signatures, sensitive issues requiring attention, or situations resulting in the need for issue resolution.

VIII. ISSUE RESOLUTION PROCESS

A. NDEP and Navy Disputes

A fundamental part of this Partnering Agreement is the issue resolution process. NDEP and the Navy will make every attempt to resolve any existing or potential dispute as a team in an open, straightforward, and collaborative manner. The parties will seek to understand underlying interests and rationales, look for flexibility and innovation within policies and guidelines, and seek out the most advantageous solution according to the goals outlined in Section I. Potential areas of dispute may include applicability and interpretation of State policies and regulations or Navy policies; determination of what constitutes an advantageous outcome for NDEP or the Navy; disagreement with contractor recommendations; disagreement about appropriateness of regulatory approaches; or differences in opinion about process versus outcome.

Figure 2, the Issue Resolution Flowchart, guides NDEP and the Navy through an issue resolution process should conflict arise. Parties involved in the issue resolution process should follow these basic steps:

1. Identify issues, interests, and rationales associated with each position.
2. Discuss the dispute at the level closest to the problem as possible.
3. Engage in solution-oriented discussions while leaving time to resolve it at a higher level if necessary. Discuss informally with senior personnel when resolving issues.
4. Raise the conflict to the next level of hierarchy in the command if the dispute:
 - a. Impacts cost, schedule or data quality;
 - b. Sets questionable precedents;
 - c. Remains unresolved after multiple attempts at resolution; or
 - d. Requires additional perspective (e.g., legal advice).

Disputes will be resolved at the level closest to the issue whenever possible. If the issues are not resolved at that level, they will be escalated to the next higher level at both NDEP and the Navy, according to the hierarchy outlined in Figure 3, Issue Resolution Hierarchy. Issues will be escalated to higher levels via a point paper detailing positions from both sides of the conflict. The point paper will be collaboratively developed by NDEP and the Navy and will identify the following: 1) issue and positions; 2) options for resolution; 3) evaluation of options; 4) risks of respective positions; 5) sticking points; and 6) what is needed from the next level of authority. Escalation of issues will result in face-to-face meetings so that the parties can discuss the dispute and seek additional information.

NDEP's stated positions on issues may not be entirely flexible given that NDEP is a state regulatory agency, though NDEP may be open to negotiation. Meetings to discuss disputes will include representatives from NDEP, NASF, and EFA-NW. Any party considering inviting legal or other counsel to serve in an advisory role at such meetings will inform the other parties in advance. Under this Partnering Agreement, the highest level of dispute resolution resides with the commanding officers at the Navy and the NDEP Bureau Chief of Federal Facilities. If the parties cannot reach consensus, each party reserves the right to pursue remedies available by law. Documentation of issue resolution will be made as necessary and appropriate.